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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/708,235	11/07/2000	Kevin Calloway	03-10074	1158

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LAW OFFICES OF DAVID L. HOFFMAN  
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SUITE 204  
VALENCIA, CA 91355

EXAMINER
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ALVAREZ, RAQUEL

ART UNIT	PAPER NUMBER
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3688

NOTIFICATION DATE	DELIVERY MODE
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02/26/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 09/708,235	<b>Applicant(s)</b> CALLOWAY ET AL.	
	<b>Examiner</b> Raquel Alvarez	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-63 and 71-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-63 and 71-78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This office action is in response to communication filed on 8/28/2009.
2. Claims 1-63 and 71-78 are presented for examination.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-15, 18-33, 36-63 and 71-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hibbeler (6,067,348 hereinafter Hibbeler) in view of Beyda et al. (6,636,965 hereinafter Beyda).**

With respect to claims 1-7, 9,-11, 55, 57, 58, 71-72, 74 Hibbeler teaches a system for creating and distributing a series of individualized messages over a computer network for a plurality of recipients (Abstract). A recipient information repository with unique recipient information for at least a first and second recipient (Figure 11, 300); a content repository with computer files comprising at least one of text and audio files (i.e. the greetings can be stored as text or audio and are converted into speech)(col. 5, lines 10-37); means for creating and delivering individualized over said computer network to each of the plurality of recipients, wherein said content is assembled from selected elements with the content repository which are selected in

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response to individual information about each of said recipients whose individual information is extracted from the recipient information repository (col. 3, lines 51-67).

With respect to the messages being multimedia graphic and video and using an e-mail message to send simultaneously individualized multimedia content for said at least five hundred are different from at least some other of said individualized multimedia content. Beyda teaches on Figure 2, creating a customized encrypted multimedia message such as an audio or video clip and sending to the recipient via e-mail, e-mail server capable of sending message to a plurality of recipients simultaneously (col.3, lines 8-32). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the messages being multimedia graphic and video and using an e-mail message to send simultaneously individualized multimedia content for said at least five hundred are different from at least some other of said individualized multimedia content in order to allow for creating individualized multimedia messages **"encrypted such that they cannot be read or heard by all recipients but only by the intended recipients"**(col. 1, lines 56-58).

With respect to claims 20, 21, 24-30, 32, 49-50, 73 Hibbeler teaches a system for creating and distributing individualized messages over a computer network (Abstract). A computer operatively connected to said network and executing a programmed sequence of instructions (See Figure 11, 1110); a recipient information access routine with said programmed sequence of instructions which is capable of accessing data about a given intended recipient with unique recipient information for at least a first and

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second recipient (Figure 11, 300); a content repository containing elements that may be combined to form individualized messages with computer files comprising at least one of text and audio files (i.e. the greetings can be stored as text or audio and are converted into speech)(col. 5, lines 10-37); a content management routine within said programmed sequence of instructions which is capable of retrieving selected content from the content repository, wherein the process of selecting content is responsive to information content regarding the given recipient accessed by the recipient information access routine (see Figure 11, 1110); a multimedia engine routine within said programmed sequence of instructions which packages the content as individualized message for delivery to the given recipient (Figure 11); a delivery routine within said programmed sequence of instructions which delivers the individualized message to the given recipient (Figure 11, 1120).

With respect to the messages being multimedia graphic and video and using an e-mail message to send simultaneously individualized multimedia content for said at least five hundred are different from at least some other of said individualized multimedia content. Beyda teaches on Figure 2, creating a customized encrypted multimedia message such as an audio or video clip and sending to the recipient via e-mail, e-mail server capable of sending message to a plurality of recipients simultaneously (col.3, lines 8-32). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the messages being multimedia graphic and video and using an e-mail message to send simultaneously individualized multimedia content for said at least five hundred are different from at least

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some other of said individualized multimedia content in order to allow for creating individualized multimedia messages **“encrypted such that they cannot be read or heard by all recipients but only by the intended recipients”**(col. 1, lines 56-58).

Claim 8 further recites a clean up routine which cleans up a recipient database by removing errors and unwanted redundancies. Official notice is taken that is old and well known in the computer related arts to remove errors and unwanted redundancies from a database in order to free memory space and to leave just useful information in the database. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included a clean up routine which cleans up a recipient database by removing errors and unwanted redundancies in order to obtain the above mentioned advantage.

Claims 12-15, 33, 36-38, 54, 56, 59-63 further recite delivering the message via various e-mail formats. Hibbeler teaches transmitting the message over the Internet (col. 6, lines 38-40) therefore delivering messages via e-mail including various formats would have been obvious convenient and widely use by computer users.

Claims 19 and 23 further recite printing the individualized messages. Official notice is taken that is old and well known to print individualized messages to the customer in order to provide a more permanent output. It would have been obvious to a

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person of ordinary skill in the art at the time of Applicant's invention to have included printing the individualized messages in order to obtain the above mentioned advantage.

Claims 22 and 31 further recites known computer programming languages. Since Hibbeler teaches transmitting the message over the Internet (col. 6, lines 38-40) then it would have been obvious to have included the various programming languages.

Claims 39-40, 42-43, 45 further recite allowing direct client input and a search engine. Official notice is taken that is old and well known in computer related arts to allow direct client input in order to take the user's objectives, likes and dislikes into account for later customization of the data and a search engine for finding information . It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included allowing direct client input and a search engine in order to obtain the above mentioned advantage.

Claims 41, 44 and 46 further recite restricting non-authorized parties from accessing a client campaign and files check in and out. Official notice is taken that is old and well known in the computer related arts to restrict non-authorized parties from accessing certain information and files check in and out. For example, certain employees would not have access to certain classified information for security reasons and keeping track of the files checked in and out to keep track of whoever is using those files. It would have been obvious to a person of ordinary skill in the art at the time of

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Applicant's invention to have included restricting non-authorized parties from accessing a client campaign and to manage file check in and out in order to achieve the above mentioned advantage.

Claim 47 further recites real time report and usage statistics. Official notice is taken that is old and well known in the computer related arts to real time reporting and usage statistics because such a modification would allow for collection, analysis and interpretation of the data collected.

Claim 51 further recites modifying the individualized message with an offer, rebate or discount. Official notice is taken that is old and well known in the computer related arts to offer an individualized, message or discount to a customer in order to increase the like hood that the customer will use the offer. For example, a couple with children will be given a children related offer that will take into account the customer needs. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included modifying the individualized message with an offer, rebate or discount in order to obtain the above mentioned advantage.

Claim 52 further recites a word-of mouth form of advertisement. Official notice is taken that is old and well known in marketing to promote word-of mouth form of



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advertisement because such a modification would provide an inexpensive reliable form of advertisement.

Claim 53 further recites collecting user's recommendations. Official notice is taken that is old and well known to collect user's recommendations and input in order to use the information to improve and make modifications to the system in place. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included collecting user's recommendations in order to achieve the above mentioned advantage.

**Claims 16-17, 34-35 and 75-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hibbeler et al. (6,067,348 hereinafter Hibbeler) in view Beyda et al. (6,636,965 hereinafter Beyda) further in view of Smith et al. (6,725,381 hereinafter Smith).**

Claims 16-17, 34-35 and 75-78 further recite sending a unique URL to the recipient pointing to the message content and a second routine to display the message content wherein in the step of delivering the multimedia message, it is delivered in response to opening the email. Smith teaches on col. 4, lines 35-43, delivering a **personalized Universal resource locator (URL) in the e-mail message with instructions to the recipient to use the URL to retrieve the subject document** after the e-mail is opened which allows the user to click on the URL to open the content of the message . It would have been obvious to a person of ordinary skill in

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the art at the time of Applicant's invention to have included in the combination of Hibbler and Beyda multimedia messages the teachings of Smith of sending a unique URL to the recipient pointing to the message content and displaying the message content because such a modification would allow for 'push' paradigm messaging and document delivery (col. 4, lines 35-43).

### **Response to Arguments**

4. Applicant's arguments with respect to claims 1-63 and 71-78 have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Point of contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert A. Weinhardt can be reached on (571)272-6633. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

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R.A.  
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